Supreme Court, U.S.
FILED
SEP 0 1 2010
OFFICE OF THE CLERK

170

(2)

No. 09-1421

IN THE

Supreme Court of the United States

RALPH T. BYRD, PETITIONER

v.

WOLPOFF & ABRAMSON, L.L.P., ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE MARYLAND COURT OF SPECIAL APPEALS

REPLY BRIEF

RALPH T. BYRD
pro se

P.O. Box 5278
Laytonsville MD 20882
(301) 774-3117
rtbyrd100@aol.com

REPLY TO RESPONDENTS' REASONS FOR DENYING THE PETITION

On page 2 of Respondents' Brief In Opposition they contend the Petition should be denied because Petitioner was found in contempt of the Bankruptcy Court and was denied a discharge as a sanction for his repeated and serious misconduct. The Bankruptcy Court's actions in this regard are the subject of Petition No. 10-173, captioned Ralph T. Byrd, et ux v. James M. Hoffman, et al., docketed in this Court on August 4, 2010.

On page 4 of Respondents' Brief In Opposition they contend the Petition should be denied because Petitioner was disbarred by the Maryland Court of Appeals as a direct result of his misconduct in the Bankruptcy Court proceedings. Respondents do not explain how Petitioner's disbarment affects the questions presented in the Petition. Rather, in keeping with their strategy below, Respondents apparently hope and expect the fact of Petitioner's disbarment will discredit Petitioner and prejudice the Court's consideration of the Petition. In any event, Petitioner's disbarment is the subject of an Answer To Rule To Show Cause In The Matter of Discipline of Ralph T. Byrd, also docketed in this Court on August 4, 2010 as Case No. D 02469.

On page 5 of Respondents' Brief In Opposition they contend the Petition should be denied because the decision by Maryland's Court of Special Appeals was not made by a court "of last resort." However 28 U.S.C 1257(a) permits certiorari from "[f]inal judgments or decrees rendered by the highest court of a State in

which a decision **could be** had." (Emphasis added). Since Petitioner timely sought, and was denied, review by Maryland's Court of Appeals, (Maryland's highest court), the denial of certiorari by Maryland's Court of Appeals was a final judgment or decree by the highest court in Maryland in which a decision could be had. *See Gotthilf v. Sills*, 84 S.Ct. 187, 375 U.S. 79, 11 L.Ed.2d 159 (1963).

On pages 5 - 6 of Respondents' Brief In Opposition they contend the Petition should be denied because the lower courts were correct in finding Petitioner's claims were preempted by the Bankruptcy Code since the claims were "in connection with the involuntary bankruptcy proceeding, a 'custom built' [bankruptcy] procedure." However, the mere fact that the case started involuntarily under 11 U.S.C 303, which includes statutory remedies under 303(i) upon the **dismissal** of the petition, does not mandate the preemption of claims for abuse of process based on a **course of conduct** by the Respondents occurring during proceedings in Bankruptcy Court, the U.S. District Court, the U.S. Court of Appeals for the Fourth Circuit, and the Maryland Attorney Grievance Commission over a period of seven years **subsequent** to the filing of a petition, culminating in a cause of action upon the seizure of the Petitioner's home. *See Graber v. Fuqua* 279 S.W. 3d 608, 615 (2009).

Moreover, neither the court in which the alleged abuse occurred nor the nature of the proceeding in which the abuse occurred has any bearing on Maryland's cause of action for abuse of process. Maryland's tort of abuse of process occurs when a person has been sufficiently harmed by the willful

misuse of **any** criminal or civil process after it has issued in order to obtain a result not contemplated by law. *One Thousand Fleet Ltd. Partnership v. Guerriero*, 346 Md. 29, 694 A.2d 952 (1997).

CONCLUSION

Petitioner believes the subject Petition, viewed together with Petition No. 10-173, captioned Ralph T. Byrd, et ux v. James M. Hoffman, et al., docketed in this Court on August 4, 2010 and Petitioner's Answer To Rule To Show Cause In The Matter of Discipline of Ralph T. Byrd, also docketed in this Court on August 4, 2010 as Case No. D-02469 presents important questions of policy as well as statutory interpretation which warrant consideration and review by this Court.

For all the foregoing reasons the Petition For a Writ of Certiorari to review the judgment of the Court of Special Appeals of Maryland and the denial of certiorari by Maryland's Court of Appeals should be granted.

Respectfully submitted,
Ralph T. Byrd, Pro Se
P.O. Box 5278
Laytonsville MD 20882
(301) 774-3117